UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,705	09/27/2001	Kiyohito Yoshihara	011153	1626

38834	7590	09/23/2005

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EXAMINER
HAMZA, FARUK

ART UNIT	PAPER NUMBER
2155	

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/963,705	YOSHIHARA ET AL.
	Examiner	Art Unit	
	Faruk Hamza	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>29 June 2005</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

Response to Amendment

1.   This action is responsive to the amendment filed on June 29, 2005.

Claims 1,3,4 and 5 have been amended. Claims 1-11 are now pending.

Specification

2.   The disclosure is objected to because of the following informalities: There

is no space in between several words (e.g. Page 1, lines 9, line 20; Page 2, line

3, line 14). Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for
patent by another filed in the United States before the invention thereof by the
applicant for patent, or on an international application by another who has fulfilled
the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title
before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors

Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology

Technical Amendments Act of 2002 do not apply when the reference is a U.S.

patent resulting directly or indirectly from an international application filed before

November 29, 2000. Therefore, the prior art date of the reference is determined

under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C.

102(e)).

3.   Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by

Bearden et al. (U.S. Patent Number 6,871,233) hereinafter referred as Bearden.

Bearden teaches the invention as claimed including a method and

apparatus for policy-based management is integrated in a single framework that

enables a system administrator to specify service-level quality of service (QoS)

goals for automatic enforcement (See abstract).

As to claim 1, Bearden teaches a management device in a policy based

management system for managing policy information by means of the

management device, and distributing the policy information to the managed

device, thereby controlling a traffic, said management device comprising:

a policy information input means for inputting policy information; (Column

4, lines 56-63, Bearden discloses policy information input means)

a policy evaluation information input means for inputting evaluation

information for evaluating an enforcement effect of a policy in the managed

device; (Column 4, lines 56-63, Bearden discloses policy evaluation information

input means)

a policy adjustment information input means for inputting adjustment

information for dynamically adjusting, a policy operated by the managed device;

and (Column 5, lines 9-18, Bearden discloses policy adjustment information input

means)

a distribution means for distributing the input policy information, policy

evaluation information, and policy adjustment information to the managed device.

(Fig. 3, Column 1, lines 54-67; Column 2, lines 1-7, Bearden discloses

distribution means)

As to claim 2, Bearden teaches a management device in a policy based

management system as claimed in claim 1, wherein said policy evaluation

information contains information for judging whether or not a policy assigned to

each traffic conforms to the traffic, and said policy adjustment information

contains information for ensuring that a policy judged as nonconformance

conforms to said traffic. (Column 5, lines 19-45)

As to claim 3, Bearden teaches a management device in a policy based

management system as claimed in claim 2, wherein said policy evaluation

information contains information for judging whether or not a policy under

operation is insufficient in resources relevant to an actual traffic, and said policy

adjustment information contains information for reducing resource insufficiency of

a policy. (Column 1, lines 65-67; Column 2, lines 1-7)

As to claim 4, Bearden teaches a management device in a policy based management system as claimed in claim 2, wherein said policy evaluation information contains information for judging whether or not a policy under operation is insufficient in resources relevant to an actual traffic, and said policy adjustment information contains information for reducing resource excess of a policy. (Column 1, lines 65-67; Column 2, lines 1-7)

As to claim 5, Bearden teaches a managed device in a policy based management system for managing policy information by means of the management device, and distributing the policy information to the managed device, thereby controlling a traffic, said managed device comprising:

a policy enforcement means for enforcing a policy information distributed from the management device, thereby controlling a traffic; (Fig. 3, Column 1, lines 54-67; Column 2, lines 1-7, Bearden discloses policy enforcement means)

a policy evaluation means for evaluating a policy under operation based on policy evaluation information distributed from the management device; and (Column 5, lines 19-45, Bearden discloses policy evaluation means)

a policy adjustment means for dynamically adjusting a policy under operation based on the policy adjustment information distributed from the management device and the evaluation result obtained by evaluation means. (Column 5, lines 9-18, Bearden discloses policy adjustment means)

As to claim 6, Bearden teaches a managed device in a policy based management system as claimed in claim 5, wherein said policy evaluation means evaluates whether or not a policy assigned to each traffic conforms to the traffic, and said policy adjustment means ensures that the policy conforms to the traffic based on said evaluation means. (Column 5, lines 19-45)

As to claim 7, Bearden teaches a managed device in a policy based management system as claimed in claim 6, wherein said policy adjustment means reduces network resources assigned by a policy evaluated as a resource excess by said evaluation means. (Column 1, lines 65-67; Column 2, lines 1-7)

As to claim 8, Bearden teaches a managed device in a policy based management system as claimed in claim 6, wherein said policy adjustment means improves a quality of a policy evaluated as resource insufficiency by said evaluation means. (Column 1, lines 65-67; Column 2, lines 1-7)

As to claim 9, Bearden teaches a managed device in a policy based management system as claimed in claim 5, wherein said policy adjustment means adjusts a policy assigned to each traffic in advance based on the evaluation result obtained by said evaluation means. (Column 5, lines 9-18)

As to claim 10, Bearden teaches a managed device in a policy based

management system as claimed in claim 5, further comprising a notifying means

for notifying the policy information after adjusted to at least one of a management

device and another managed device. (Column 3, lines 52-59)

As to claim 11, Bearden teaches a managed device in a policy based

management system as claimed in claim 5, where in said policy adjustment

means adjusts a policy based on the notification from another managed device.

(Column 5, lines 30-44).

Response to Arguments

4.   Applicant's arguments filed on June 29, 2005 have been fully considered

but they are not persuasive.

In the remarks, the applicant argues in substance that; A) Bearden doesn't

teach management device and managed device.

In response to A) Bearden teaches management device (management

server, Fig. 3, 301) and managed devices (Fig. 3, Network elements 307-1 to

307-N). Therefore Bearden's teaching of management server and network

elements meets the scope of the claim limitation "management device" and

"managed device".

Conclusion

5.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of

time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire

THREE MONTHS from the mailing date of this action. In the event a first reply is

filed within TWO MONTHS of the mailing date of this final action and the advisory

action is not mailed until after the end of the THREE-MONTH shortened statutory

period, then the shortened statutory period will expire on the date the advisory

action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

6.   Any inquiry concerning this communication or earlier communications from

the examiner should be directed to Faruk Hamza whose telephone number is

571-272-7969. The examiner can normally be reached on Monday through

Friday.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Saleh Najjar can be reached at 571-272-4006. The fax

phone number for the organization where this application or proceeding is
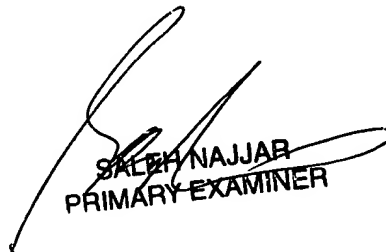
assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll –free).

Faruk Hamza

Patent Examiner

Group Art Unite 2155

SALEH NAJJAR
PRIMARY EXAMINER